

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1184

By: Adkins

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety; amending
9 43A O.S. 1991, Section 3-417, as amended by Section
10 3, Chapter 327, O.S.L. 1994 and Section 3, Chapter
11 213, O.S.L. 1994 (43A O.S. Supp. 1998, Sections 3-417
12 and 3-417.1), which relate to certain treatment
13 facilities; removing authority of the State
14 Commissioner of Health to issue certain licenses
15 after certain date; making issuance of licenses
16 subject to the Oklahoma Alcohol and Drug Abuse
17 Services Act; providing for continuation of certain
18 licenses; providing exceptions; providing for
19 treatment of certain licenses relating to standards
20 and procedures; providing for appellate matters
21 relating to licensure; providing for continuation of
22 certain rules; providing for exception; clarifying
23 language; amending 63 O.S. 1991, Sections 1-701, as
24 amended by Section 5, Chapter 231, O.S.L. 1995, 1-
25 702, as amended by Section 49, Chapter 354, O.S.L.
26 1996, 1-704, as amended by Section 13, Chapter 269,
27 O.S.L. 1993, 1-705, 1-706, 1-707, 1-707a, as amended
28 by Section 1, Chapter 134, O.S.L. 1995 and 1-707b, as
29 last amended by Section 6, Chapter 358, O.S.L. 1995
30 (63 O.S. Supp. 1998, Sections 1-701, 1-702, 1-704, 1-
31 707a and 1-707b), which relate to hospitals;
32 modifying, deleting and adding definitions;
clarifying language; deleting references to related
institutions and to certain treatment facilities;
adding to content of rules and standards; providing
for appointment, removal and duties; specifying
terms; providing for travel expenses compensation;
requiring travel reimbursement; repealing Sections 1,
2, 3, 4 and 5, Chapter 226, O.S.L. 1994 (63 O.S.
Supp. 1998, Sections 1-706.1, 1-706.2, 1-706.3, 1-
706.4 and 1-706.5), which relate to the Oklahoma
Rural Primary Care Hospital and Emergency Medical
Services Act; repealing 63 O.S. 1991, Section 2550,
which relates to the licensing of certain
laboratories; repealing 63 O.S. 1991, Sections 1-709,
1-710, 1-712, 1-714, 1-715, 1-716, 1-717, 1-718, 1-
720 and 1-721, which relate to hospital records,
definitions, the State Hospital Planning Advisory
Council, certain grants, certain state plans for
construction of public and other nonprofit hospitals,
contents of state plans, reports, and approval
requirements, right to deny to certain groups the
authority to construct certain hospitals, and certain
transfer of duties; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY 43A O.S. 1991, Section 3-417, as
3 amended by Section 3, Chapter 327, O.S.L. 1994 (43A O.S. Supp. 1998,
4 Section 3-417), is amended to read as follows:

5 Section 3-417. A. After being certified by the Alcohol and
6 Drug Abuse Prevention, Training, Treatment and Rehabilitation
7 Authority, any person or private agency, other than a transitional
8 living facility or halfway house as defined by Section 3-403 of this
9 title and persons or private agencies providing only outpatient
10 services, shall apply ~~to the State Commissioner of Health~~ for a
11 license to operate the treatment facility. Applications On or
12 before December 31, 1999, applications for such licenses shall be
13 made to the State Commissioner of Health in accordance with
14 provisions for licensing hospitals ~~and related institutions~~
15 ~~contained in~~ pursuant to Sections 1-703 and 1-704 of Title 63 of the
16 Oklahoma Statutes. Beginning January 1, 2000, applications for such
17 licenses shall be made to the Department of Mental Health and
18 Substance Abuse Services in accordance with the provisions of the
19 Oklahoma Alcohol and Drug Abuse Services Act and rules promulgated
20 by the Alcohol and Drug Abuse Prevention, Training, Treatment and
21 Rehabilitation Authority.

22 B. In addition to the standards for treatment services and
23 rules of operation required by Section 3-416 of this title, the
24 ~~Department of Mental Health and Substance Abuse Services~~ Alcohol and
25 Drug Abuse Prevention, Training, Treatment and Rehabilitation
26 Authority shall establish physical facility standards, fire safety
27 standards and such other health and safety standards for treatment
28 facilities, halfway houses and transitional living facilities as
29 necessary.

30 C. The ~~Department of Mental Health and Substance Abuse Services~~
31 Alcohol and Drug Abuse Prevention, Training, Treatment and
32 Rehabilitation Authority ~~and the State Department of Health~~ shall

1 ensure that the standards required by Section 3-415 of ~~Title 43A and~~
2 ~~Section 1-705 of Title 63 of the Oklahoma Statutes~~ this title
3 include specific physical facility standards providing for
4 facilities that provide substance abuse treatment services to
5 pregnant women and women with children when the children also reside
6 at the facility.

7 D. Any license issued by the State Commissioner of Health
8 pursuant to this section before January 1, 2000, shall remain in
9 effect until the scheduled expiration of the license, unless sooner
10 revoked, suspended or modified by the Department of Mental Health
11 and Substance Abuse Services based on the licensee's failure to
12 comply with provisions of the Oklahoma Alcohol and Drug Abuse
13 Services Act or rules promulgated hereunder.

14 E. Any application for a license that was duly filed with the
15 State Commissioner of Health before January 1, 2000, shall be acted
16 upon pursuant to standards and procedures in effect at the time such
17 application was filed. Any application for a license not acted upon
18 before January 1, 2000, shall be considered to have been duly filed
19 with the Department of Mental Health and Substance Abuse Services.
20 In appellate matters after December 31, 1999, relating to licensure
21 under this section, the Department of Mental Health and Substance
22 Abuse Services shall be considered as the State Commissioner of
23 Health.

24 F. The rules of the Oklahoma State Board of Health relating to
25 licensure of inpatient treatment facilities under this section in
26 effect on January 1, 2000, shall be enforceable by the Department of
27 Mental Health and Substance Abuse Services and shall remain
28 effective until the adoption of new rules by the Alcohol and Drug
29 Abuse Prevention, Training, Treatment and Rehabilitation Authority.

30 SECTION 2. AMENDATORY Section 3, Chapter 213, O.S.L.
31 1994 (43A O.S. Supp. 1998, Section 3-417.1), is amended to read as
32 follows:

1 Section 3-417.1 For the location of any treatment facility,
2 transitional living center or halfway house as defined in Section 3-
3 403 of ~~Title 43A of the Oklahoma Statutes~~ this title which is
4 operated pursuant to a license issued ~~by the State Commissioner of~~
5 ~~Health~~ under Section 3-417 of this title for alcohol and drug abuse
6 prevention, training, treatment and rehabilitation, the state, a
7 county, or a municipality shall be subject to the nondiscriminatory
8 zoning ordinances of the municipality in which located, and the
9 location of such facility is specifically prohibited within one
10 thousand (1,000) feet of any public or private elementary or
11 secondary school. Provided, that if any public or private
12 elementary or secondary school shall be established within the
13 prohibited distance from any such facility after such facility has
14 been in use as a treatment facility, transitional living center or
15 halfway house, this shall not be a bar to the continued use of the
16 facility as designated so long as it remains in continuous use as
17 designated. The distance indicated in this section shall be
18 measured from the nearest property line of the school to the nearest
19 property line of the treatment facility, transitional living center
20 or halfway house. The provisions of this section shall not apply to
21 any treatment facility, transitional living center or halfway house
22 established prior to the effective date of this act.

23 SECTION 3. AMENDATORY 63 O.S. 1991, Section 1-701, as
24 amended by Section 5, Chapter 231, O.S.L. 1995 (63 O.S. Supp. 1998,
25 Section 1-701), is amended to read as follows:

26 Section 1-701. For the purposes of this article:

27 1. "Hospital" means any institution, place, building or agency,
28 public or private, whether organized for profit or not, devoted
29 primarily to the maintenance and operation of facilities for the
30 diagnosis, treatment or care of patients admitted for overnight stay
31 or longer in order to obtain medical care, surgical care,
32 obstetrical care, or nursing care for illness, disease, injury,

1 infirmity, or deformity. Except as otherwise provided by paragraph
2 5 of this subsection, places where pregnant females are admitted and
3 receive care incident to pregnancy, abortion or delivery shall be
4 considered to be a "hospital" within the meaning of this article,
5 regardless of the number of patients received or the duration of
6 their stay. The term "hospital" includes general ~~and~~ medical
7 surgical hospitals, specialized hospitals, ~~tuberculosis sanatoria,~~
8 ~~maternity homes, lying-in homes, and homes for unwed mothers in~~
9 ~~which care is given during delivery.~~ critical access and emergency
10 hospitals, and birthing centers;

11 2. "General medical surgical hospital" means a hospital
12 maintained for the purpose of providing hospital care in a broad
13 category of illness and injury-;

14 3. "Specialized hospital" means a hospital maintained for the
15 purpose of providing hospital care in a certain category, or
16 categories, of illness and injury-;

17 4. ~~"Related institution" means an institution, or an industrial~~
18 ~~or other type of infirmary, providing limited medical or surgical~~
19 ~~care to ill or injured persons on a temporary basis, or a birthing~~
20 ~~center.~~ Critical access hospital" means a hospital determined by the
21 State Department of Health to be a necessary provider of health care
22 services to residents of a rural community;

23 5. "Emergency hospital" means a hospital that provides
24 emergency treatment and stabilization services on a 24-hour basis
25 and that has the ability to admit and treat patients for short
26 periods of time;

27 6. "Birthing center" means any facility, place or institution,
28 which is maintained or established primarily for the purpose of
29 providing services of a certified midwife or licensed medical doctor
30 to assist or attend a woman in delivery and birth, and where a woman
31 is scheduled in advance to give birth following a normal,
32

1 uncomplicated, low-risk pregnancy. Provided, however, licensure for
2 a birthing center shall not be compulsory; and

3 ~~6.~~ 7. "Day treatment program" means nonresidential, partial
4 hospitalization programs, day treatment programs, and day hospital
5 programs as defined by subsection A of Section ~~1 of this act~~ 175.20
6 of Title 10 of the Oklahoma Statutes.

7 SECTION 4. AMENDATORY 63 O.S. 1991, Section 1-702, as
8 amended by Section 49, Chapter 354, O.S.L. 1996 (63 O.S. Supp. 1998,
9 Section 1-702), is amended to read as follows:

10 Section 1-702. A. It shall be unlawful for any person to
11 establish, operate or maintain in the State of Oklahoma ~~any a~~
12 ~~hospital or related institution~~ without first obtaining a license
13 therefor in the manner hereinafter provided. Hospitals operated by
14 the federal government, state mental hospitals, and community-based
15 structured crisis centers, as defined in Section 3-317 of Title 43A
16 of the Oklahoma Statutes, shall be exempt from the provisions of
17 this article.

18 B. A hospital may be licensed as a general medical surgical
19 hospital with one or more specialty services or combination of
20 specialty services in a single license.

21 C. Nothing in this article shall authorize any person to
22 engage, in any manner, in the practice of the healing arts.

23 SECTION 5. AMENDATORY 63 O.S. 1991, Section 1-704, as
24 amended by Section 13, Chapter 269, O.S.L. 1993 (63 O.S. Supp. 1998,
25 Section 1-704), is amended to read as follows:

26 Section 1-704. A. 1. The application by any person for a
27 license to operate a hospital ~~or related institution~~ within the
28 meaning of this article shall be accompanied by a fee to be
29 determined by the number of beds available for patients, to be
30 established by the State Board of Health, but not to exceed Ten
31 Dollars (\$10.00) for each bed included in the maximum bed capacity
32 at such facility.

1 2. For the purpose of determining the fee, the total number of
2 beds shall include cribs and bassinets.

3 B. No such fee shall be refunded unless licensure is refused.
4 All licenses shall be for a period of twelve (12) months from the
5 date of issue. ~~Provided that licenses may be issued for a period of~~
6 ~~more than twelve (12) months, but not more than twenty-four (24)~~
7 ~~months, for the license period immediately following the enactment~~
8 ~~of this provision in order to permit an equitable distribution of~~
9 ~~license expiration dates to all months of the year.~~

10 C. Fees for such extended licensure period shall be prorated
11 according to the total months to be licensed, with such amounts to
12 be calculated to the nearest dollar.

13 D. All licenses shall:

14 1. Shall be on a form prescribed by the State Commissioner of
15 Health, shall not be transferable or assignable, ~~shall;~~

16 2. Shall be issued only for the premises named in the
17 application, ~~shall;~~

18 3. Shall be posted in a conspicuous place on the licensed
19 premises, ~~;~~ and may

20 4. May be renewed for twelve-month periods upon application,
21 investigation and payment of license fee, as in the case of
22 procurement of an original license.

23 SECTION 6. AMENDATORY 63 O.S. 1991, Section 1-705, is
24 amended to read as follows:

25 Section 1-705. A. The State Board of Health, upon
26 recommendation of the State Commissioner of Health and with the
27 advice of the ~~Health Facilities~~ Oklahoma Hospital Advisory Council
28 hereinafter provided for, shall ~~adopt~~ promulgate rules, ~~regulations~~
29 and standards for the construction and operation of hospitals ~~and~~
30 ~~related institutions~~, for which licenses are required by the terms
31 of this article, to provide for the proper care of patients. The
32 ~~adoption~~ promulgation of rules and ~~regulations~~ shall be subject to

1 and be governed by the provisions of ~~House Bill No. 865 Of the~~
2 ~~Twenty-ninth Legislature~~ the Administrative Procedures Act.

3 B. Every hospital ~~and related institution~~ shall be periodically
4 inspected by an authorized representative of the Commissioner, ~~and~~
5 ~~reports~~. Reports of such inspections shall be on forms prescribed
6 by the Commissioner, who shall, after receipt of such reports, take
7 such action as ~~he deems~~ deemed necessary by the Commission to have
8 corrected any deficiencies or violations of the rules, ~~regulations~~
9 and standards of the Board, shown in such reports.

10 C. Hospitals ~~and related institutions~~ licensed ~~under~~ pursuant
11 to the provisions of this article shall not be exempt from being
12 inspected or licensed under laws relating to hotels, restaurants,
13 lodging houses, boarding houses and places of refreshment.

14 D. 1. Every hospital ~~and related institution as defined by~~
15 ~~Section 1-710 of this title and chemical dependency treatment~~
16 ~~facilities, other than group homes, halfway houses and transitional~~
17 ~~living facilities, licensed by the Department~~ that offers or
18 provides inpatient psychiatric or chemical dependency treatment
19 services to persons eighteen (18) years of age or younger shall
20 offer, provide or otherwise make available community-based programs
21 and services and may make said programs and services available
22 directly, through contract, or other appropriate means as determined
23 by the State Department of Health.

24 2. For the purposes of this subsection the term
25 "community-based services" shall have the same meaning as said term
26 is defined by Section ~~1101~~ 7001-1.3 of Title 10 of the Oklahoma
27 Statutes.

28 SECTION 7. AMENDATORY 63 O.S. 1991, Section 1-706, is
29 amended to read as follows:

30 Section 1-706. ~~(a)~~ A. The State Commissioner of Health shall
31 issue licenses for the operation of hospitals ~~and related~~
32 ~~institutions~~ found to comply with the provisions of this article and

1 ~~standards,~~ rules and ~~regulations~~ standards of the State Board of
2 Health.

3 ~~(b)~~ B. The Commissioner may suspend or revoke any such license
4 on any of the following grounds:

5 ~~(1) violation~~ 1. Violation of any of the provisions of this
6 article, or rules, ~~regulations~~ or standards ~~adopted~~ promulgated
7 pursuant thereto;

8 ~~(2) permitting~~ 2. Permitting, aiding or abetting the commission
9 of any illegal act in the licensed hospital or institution; or

10 ~~(3) conduct~~ 3. Conduct of practices deemed by the Commissioner
11 to be detrimental to the welfare of the patients of the hospital or
12 institution.

13 ~~(c)~~ C. If a license is revoked, a new application for license
14 shall be considered by the Commissioner on receipt of evidence that
15 the conditions upon which revocation was based have been corrected;

16 ~~and a.~~ A new license may then be granted after proper inspection
17 has been made and all provisions of this article and ~~standards,~~
18 rules and ~~regulations~~ standards of the State Board of Health have
19 been satisfied.

20 SECTION 8. AMENDATORY 63 O.S. 1991, Section 1-707, is
21 amended to read as follows:

22 Section 1-707. A. The State Board of Health, upon the
23 recommendation of the State Commissioner of Health and with the
24 advice of the ~~State~~ Oklahoma Hospital Advisory Council ~~hereinafter~~
25 ~~provided for,~~ shall ~~adopt such~~ promulgate rules, ~~regulations~~ and
26 standards as it deems to be in the public interest for hospitals ~~and~~
27 ~~related institutions,~~ on the following:

28 1. Construction plans and location, including fees not to
29 exceed Two Thousand Dollars (\$2,000.00) for submission or
30 resubmission of architectural and building plans, and procedures to
31 ensure the timely review of such plans by the State Department of
32 Health; physical

2. Physical plant and facilities; ~~fire~~
3. Fire protection and safety; ~~food~~
4. Food service; ~~reports~~
5. Reports and records; ~~staffing~~
6. Staffing and personal service; ~~surgical~~
7. Surgical facilities and equipment; ~~maternity~~
8. Maternity facilities and equipment; ~~control~~
9. Control of communicable disease; ~~sanitation~~
10. Sanitation; ~~laboratory~~
11. Laboratory services; ~~nursing~~
12. Nursing facilities and equipment; and ~~other~~
13. Other items as may be deemed necessary to carry out the

purposes of this article.

B. 1. The State Board of Health, upon the recommendation of the State Commissioner of Health and with the advice of the State Oklahoma Hospital Advisory Council and with the advice of the State Board of Pharmacy, shall ~~adopt such~~ promulgate rules, ~~regulations~~ and standards as it deems to be in the public interest with respect to the storage and dispensing of drugs and medications for hospital patients; ~~the.~~

2. The State Board of Pharmacy shall be empowered to inspect drug facilities in licensed hospitals and shall report violations of applicable statutes and ~~regulations~~ rules to the State ~~Board~~ Department of Health for action and reply.

C. The Commissioner shall appoint an Oklahoma Hospital Advisory Council to advise the Board, the Commissioner, and the Department regarding hospital operations and to recommend actions to improve patient care. The Advisory Council shall have the duty and authority to:

1. Review and approve in its advisory capacity rules and standards for hospital licensure;

1 2. Evaluate, review and make recommendations regarding
2 Department licensure activities; and

3 3. Recommend and approve quality indicators and data submission
4 requirements for hospitals, the indicators and data to be used by
5 the Department to monitor compliance with licensure requirements and
6 to publish an annual report of hospital performance.

7 D. The Advisory Council shall be composed of nine (9) members
8 appointed by the Commissioner with the advice and consent of the
9 Board. The membership of the Advisory Council shall be as follows:

10 1. Two members shall be administrators of licensed hospitals;

11 2. Two members shall be licensed physicians or practitioners
12 who have current privileges to provide services in hospitals;

13 3. Two members shall be hospital employees; and

14 4. Three members shall be citizens representing the public who
15 are not hospital employees, do not hold hospital staff appointments,
16 and are not members of hospital governing boards.

17 E. 1. Advisory Council members shall be appointed for three-
18 year terms except the initial terms after November 1, 1999, of one
19 hospital administrator, one licensed physician or practitioner, one
20 hospital employee, and one public member shall be one (1) year. The
21 initial terms after the effective date of this act of one hospital
22 administrator, one licensed physician or practitioner, one hospital
23 employee, and one public member shall be two (2) years. The initial
24 terms of all other members shall be three (3) years. After initial
25 appointments to the Council, members shall be appointed to three-
26 year terms.

27 2. Members of the Advisory Council may be removed by the
28 Commissioner for cause.

29 F. The Advisory Council shall meet on a quarterly basis and
30 shall annually elect a chairperson. Members of the Council shall
31 serve without compensation but shall be reimbursed for travel
32

1 expenses by the Department as authorized by the State Travel
2 Reimbursement Act.

3 SECTION 9. AMENDATORY 63 O.S. 1991, Section 1-707a, as
4 amended by Section 1, Chapter 134, O.S.L. 1995 (63 O.S. Supp. 1998,
5 Section 1-707a), is amended to read as follows:

6 Section 1-707a. A. The administrator in charge of each
7 hospital ~~or related institution~~ licensed by the State Commissioner
8 of Health shall accept for consideration each application for
9 professional staff privileges submitted by a person licensed to
10 practice:

- 11 1. Medicine by the State Board of Medical Licensure and
12 Supervision;
- 13 2. Osteopathy by the State Board of Osteopathy;
- 14 3. Podiatry by the State Board of Podiatry; or
- 15 4. As a health service psychologist by the Oklahoma State Board
16 of Examiners of Psychologists.

17 B. The application shall be acted upon by the governing board
18 of the hospital within a reasonable time. A written report of such
19 action shall be furnished to the applicant thereafter.

20 C. If a hospital grants staff privileges to a psychologist, at
21 the time of admission of a patient of the psychologist to the
22 hospital, the psychologist or the hospital shall identify a
23 psychiatrist, a medical doctor, or a doctor of osteopathy who shall
24 be responsible for the medical evaluation and medical management of
25 the patient.

26 SECTION 10. AMENDATORY 63 O.S. 1991, Section 1-707b, as
27 last amended by Section 6, Chapter 358, O.S.L. 1995 (63 O.S. Supp.
28 1998, Section 1-707b), is amended to read as follows:

29 Section 1-707b. A. The administrator in charge of or the
30 governing board of each hospital ~~or related institution~~ licensed by
31 the State Commissioner of Health shall adopt written criteria for
32 use in determining which licensed medical doctors, doctors of

1 osteopathy, doctors of podiatry, and health service psychologists
2 shall be granted professional and/or medical staff privileges by the
3 hospital ~~or related institution~~. A licensed hospital ~~or related~~
4 ~~institution~~ shall not deny an application based solely on the
5 applicant's license, as long as the applicant is licensed to
6 practice:

- 7 1. Medicine by the State Board of Medical Licensure and
8 Supervision;
- 9 2. Osteopathy by the State Board of Osteopathy;
- 10 3. Podiatry by the State Board of Podiatry; or
- 11 4. As a health service psychologist by the Oklahoma State Board
12 of Examiners of Psychologists.

13 B. The accordance and delineation of medical staff membership
14 or clinical privileges shall be determined on an individual basis
15 commensurate with an applicant's education, training, experience and
16 demonstrated clinical competence.

17 C. When medical education training and specialty board
18 certification are considerations in the credentialing of physicians,
19 hospitals and health plans shall give equal recognition to those
20 bodies recognized by the federal government for the training and
21 certification of such physicians. Hospitals and health plans shall
22 not discriminate, on the basis of education, against eligible
23 physicians who have:

- 24 1. Graduated from medical schools and postdoctoral programs
25 approved by either the American Osteopathic Association or the
26 Accreditation Council for Graduate Medical Education; or

- 27 2. ~~Have been~~ Been awarded board eligibility or board
28 certification by specialty boards recognized by either the American
29 Osteopathic Association or the American Board of Medical
30 Specialties.

31 SECTION 11. REPEALER Sections 1, 2, 3, 4 and 5, Chapter
32 226, O.S.L. 1994 (63 O.S. Supp. 1998, Sections 1-706.1, 1-706.2, 1-

1 706.3, 1-706.4 and 1-706.5), are hereby repealed. 63 O.S. 1991,
2 Sections 2550, 1-709, 1-710, 1-712, 1-714, 1-715, 1-716, 1-717, 1-
3 718, 1-720 and 1-721, are hereby repealed.

4 SECTION 12. This act shall become effective November 1, 1999.

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